

SUPPORTING STATEMENT

30 CFR 56.5005 and 57.5005, Respirator Program Records (pertains to metal and nonmetal surface and underground mines)

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Title 30 CFR Sections 56.5005 and 57.5005 require, whenever respiratory equipment is used, that metal and nonmetal mine operators institute a respirator program governing selection, maintenance, training, fitting, supervision, cleaning, and use of respirators.

30 CFR Sections 56.5005 and 57.5005 seeks to control miner exposure to harmful airborne contaminants by using engineering controls to prevent contamination, vent or dilute the contaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment.

Sections 56.5005 and 57.5005 incorporate by reference requirements of the American National Standards Institute (ANSI Z88.2-1969). These incorporated requirements mandate that miners who must wear respirators be fit-tested to the respirators that they will use. Certain records are also required to be kept in connection with respirators, including: written standard operating procedures governing the selection and use of respirators; records of the date of issuance of the respirator; and fit-test results.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The mine operator uses the information to properly issue respiratory protective to miners when feasible engineering and/or
September 29, 2004

administrative controls do not reduce miners' exposures to permissible levels. Fit-testing records are used to ensure that a respirator worn by an individual is in fact the same brand, model, and size respirator that was worn when that individual successfully passed a fit-test. MSHA uses the information to determine compliance with the standard.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

No improved information technology has been identified that would reduce the burden.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Procedures are developed based on conditions at individual mines. No similar or duplicate information exists.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information does not have a significant impact on small businesses or other small entities. However, MSHA has made available on our web-site various sources of information, such as "Technical Assistance," "Best Practices," and an "Accident Prevention" site. To assist with compliance, these provide tips and general information on various topics.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The development of a respirator program that addresses the selection, use, and care of respirators is normally not a recurring requirement, but is typically a one-time project. However, in instances where the levels or types of airborne contaminants in mines change significantly, mine operators may be required to amend their respirator programs to address these new conditions. There is no specified interval for fit-testing. However, in instances where the mine operator is found to be out of compliance with respirator use or maintenance requirements, MSHA inspectors may determine that it is necessary to inspect fit-testing records for the respirators that are used by miners, to assess whether miners have been fitted with proper respirators.

September 29, 2004

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This collection of information is consistent with the guidelines in 5 CFR Section 1320.5. There is no quarterly reporting requirement.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

In accordance with 5 CFR 1320.8 (d), MSHA will publish the proposed information collection requirements in the Federal Register, notifying the public that these information collection requirements are being reviewed in accordance with the Paperwork

September 29, 2004

Reduction Act of 1995, and giving interested persons 60 days to submit comments.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

MSHA does not provide payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

There is no assurance of confidentiality provided to respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

The development of a respirator program that addresses the selection, use, and care of respirators normally is not a recurring requirement, but is typically a one-time project. However, in instances where the levels or types of airborne contaminants in mines change significantly, mine operators may be required to amend their respirator programs to address these new conditions. Reference material is readily available to the mine

September 29, 2004

operator. Most operators initially prepare these procedures based on the minimal requirements contained in ANSI Z88.2-1969, section 3.3.3, which references section 3.5 (3.5.1 through 3.5.8); sections 4, 7.4, 7.5, 8.3, 8.5, 8.2, 6.3.4, and 10.4 as referenced by section 3.5; and sections 6.3.2.2(4), 6.5.6, 7.1, 7.2, and 7.3. Respirator manufacturers also provide detailed instructions with each respirator on proper fitting and use. Based on MSHA industrial hygienists' experience, it is estimated that mine operators will spend an average of 5 hours per year to fulfill the requirements of the standards. MSHA's records show that there are approximately 310 mining/milling operations that may have to comply with this portion of the standard in any one year.

$$310 \text{ mines} \times 5 \text{ hours} = 1,550 \text{ hours}$$

Miners who are required to wear respirators are required to be fit-tested, and records are required to be kept of the results. MSHA's records show that approximately 1,500 miners would be fit-tested once per year, requiring 15 minutes (0.25 hours) per fit-test. The record keeping would be done simultaneously as the fit-test is being performed. Therefore, the fit-testing time estimates include the record keeping requirement of this standard. Any new miners hired, as well as currently employed miners, who would be required to wear a respirator, are included in the calculations.

$$1,500 \text{ miners} \times 0.25 \text{ hour} = 375 \text{ hours}$$

In addition to the MSHA record keeping requirements, the ANSI standards, incorporated by reference, require that records be kept of inspection dates and findings for respirators maintained for emergency use. Respirators that are not routinely used, but kept ready for emergency use, are required to be inspected after each use and at least monthly to ensure that they are in satisfactory working condition. MSHA estimates one emergency respirator per mine.

$$\begin{array}{rcl} 5 \text{ minutes (0.0833 hour)} \times 12 \text{ inspections} & & \\ \times 310 \text{ emergency respirators} & = & \underline{310 \text{ hours}} \\ \text{TOTAL BURDEN HOURS} & & \text{2,235 hours} \end{array}$$

Cost: Salary cost figures used in these calculations are based on Data from the **U.S. Metal & Industrial Mineral Mine Salaries, Wages, & Benefits - 2002 Survey Results**

Program development and fit-testing

$$1,925 \text{ hours} \times \$47.58 \text{ hour} = \$ 91,592$$

September 29, 2004

ANSI Record keeping

$$\begin{array}{rcl} 310 \text{ hours} \times \$19.06 \text{ hour} & = & \$ 5,909 \\ \text{Total Cost Burden:} & & \$ 97,501 \end{array}$$

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record 14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Equipment required to conduct respirator fit-tests would cost about \$300. Each respirator costs \$35.

$$\begin{array}{rcl} 310 \text{ mines} \times \$300.00 & = & \$93,000 \\ 1,810 \text{ respirators} \times \$35 & = & \$63,350 \\ \text{Total cost:} & & \$156,350 \end{array}$$

Because the records are maintained by the mine operator, there are no additional costs associated with this burden other than those described above.

September 29, 2004

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Records are examined by MSHA personnel during routine inspections. MSHA estimates that this burden is minimal and has not included a separate cost factor.

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

There are no changes in burden hours and costs from the previous submission. The number of respondents is changed from 5,530 to 5,220 to correct an error in calculation.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

MSHA does not intend to publish the results of this information collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no forms associated with this information collection; therefore, MSHA is not seeking approval to not display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

There are no exceptions to the certification statement on the OMB 83-I.

B. Collection of Information Employment Statistical Methods

Collection of information does not employ statistical methods.

**Federal Mine Safety & Health Act of 1977,
Public Law 91-173,
as amended by Public Law 95-164**

An Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Federal Mine Safety and Health Act of 1977".

**TITLE I -- GENERAL
MANDATORY SAFETY AND HEALTH STANDARDS**

SEC. 101. (a) The Secretary shall by rule in accordance with procedures set forth in this section and in accordance with section 553 of title 5, United States Code (without regard to any reference in such section to sections 556 and 557 of such title), develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines.

(7) Any mandatory health or safety standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such mandatory standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring miner exposure at such locations and intervals, and in such manner so as to assure the maximum protection of miners. In addition, where appropriate, any such mandatory standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such miners is adversely affected by such exposure. Where appropriate, the mandatory standard shall provide that where a determination is made that a miner may suffer material impairment of health or functional capacity by reason of exposure to the hazard covered by such mandatory standard, that miner shall be removed from such exposure and reassigned. Any miner transferred as a result of such exposure shall continue to receive compensation for such work at no less than the regular rate of pay for miners in the classification such miner held immediately prior to his transfer. In the event of the transfer of a miner pursuant to the preceding sentence, increases in wages of the transferred miner shall be based upon the new work classification. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of examinations or tests made pursuant to the preceding

sentence shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his designated physician.

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[Page 277]

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 56--SAFETY AND HEALTH STANDARDS--SURFACE METAL AND NONMETAL MINES--Table
of Contents

Subpart D--Air Quality and Physical Agents

Sec. 56.5005 Control of exposure to airborne contaminants.

Control of employee exposure to harmful airborne contaminants shall be, insofar as feasible, by prevention of contamination, removal by exhaust ventilation, or by dilution with uncontaminated air. However, where accepted, engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment. Whenever respiratory protective equipment is used a program for selection, maintenance, training, fitting, supervision, cleaning, and use shall meet the following minimum requirements:

(a) Respirators approved by NIOSH under 42 CFR part 84 which are applicable and suitable for the purpose intended shall be furnished and miners shall use the protective equipment in accordance with training and instruction.

(b) A respirator program consistent with the requirements of ANSI Z88.2-1969, published by the American National Standards Institute and entitled ``American National Standards Practices for Respiratory Protection ANSI Z88.2-1969,'' approved August 11, 1969, which is hereby incorporated by reference and made a part hereof. This publication may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

(c) When respiratory protection is used in atmospheres immediately harmful to life, the presence of at least one other person with backup equipment and rescue capability shall be required in the event of failure of the respiratory equipment.

[50 FR 4054, Jan. 29, 1985, as amended at 60 FR 30400, June 8, 1995; 60 FR 33723, June 29, 1995; 60 FR 35695, July 11, 1995]

September 29, 2004

[Code of Federal Regulations]
[Title 30, Volume 1]
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From the U.S. Government Printing Office via GPO Access
[CITE: 30CFR57.5005]

[Page 343]

TITLE 30--MINERAL RESOURCES

CHAPTER I--MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 57--SAFETY AND HEALTH STANDARDS--UNDERGROUND METAL AND NONMETAL MINES--
Table of Contents

Subpart D--Air Quality, Radiation, Physical Agents, and Diesel
Particulate Matter

Sec. 57.5005 Control of exposure to airborne contaminants.

Control of employee exposure to harmful airborne contaminants shall be, insofar as feasible, by prevention of contamination, removal by exhaust ventilation, or by dilution with uncontaminated air. However, where accepted engineering control measures have not been developed or when necessary by the nature of work involved (for example, while establishing controls or occasional entry into hazardous atmospheres to perform maintenance or investigation), employees may work for reasonable periods of time in concentrations of airborne contaminants exceeding permissible levels if they are protected by appropriate respiratory protective equipment. Whenever respiratory protective equipment is used a program for selection, maintenance, training, fitting, supervision, cleaning, and use shall meet the following minimum requirements:

(a) Respirators approved by NIOSH under 42 CFR part 84 which are applicable and suitable for the purpose intended shall be furnished and miners shall use the protective equipment in accordance with training and instruction.

(b) A respirator program consistent with the requirements of ANSI Z88.2-1969, published by the American National Standards Institute and entitled ``American National Standards Practices for Respiratory Protection ANSI Z88.2-1969,'' approved August 11, 1969, which is hereby incorporated by reference and made a part hereof. This publication may be obtained from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018, or may be examined in any Metal and Nonmetal Mine Safety and Health District Office of the Mine Safety and Health Administration.

(c) When respiratory protection is used in atmospheres immediately harmful to life, the presence of at least one other person with backup equipment and rescue capability shall be required in the event of failure of the respiratory equipment.

[50 FR 4082, Jan. 29, 1985, as amended at 60 FR 30400, June 8, 1995; 60 FR 33723, June 29, 1995; 60 FR 35695, July 11, 1995]

[[Page 344]Agency: Mine Safety and Health Administration
September 29, 2004

Title: Respirator Program Records

OMB Number: 1219-0048 (Extension)

Frequency: Monthly and On Occasion

Affected Public: Business or other for-profit.

Number of Respondents: 310

Number of Responses: 5,220

Estimated Time Per Response: .428 hours

Total Burden Hours: 2,235

Total Annualized Capital/startup Costs: 0

Total Burden Costs (operating/maintaining): \$156,350

Description: Where protective equipment or respirators are required because of exposure to harmful substances, MSHA regulations require a written respirator program that addresses such issues as selection, fitting, use, and maintenance of respirators to ensure that workers are properly and effectively using the equipment, and that such equipment offers adequate protection for workers. Records of fit-testing are essential for determining that the worker is wearing the proper respirator. Certain records are also required to be kept in connection with respirators, including records of the date of issuance of the respirator, and fit-test results. The fit-testing records are essential for determining that the worker is wearing the proper respirator.

September 29, 2004